

APPEAL NO. 032913
FILED DECEMBER 30, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 14, 2003. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the fifth quarter. The appellant (carrier) appeals, contending that the evidence is insufficient to support the hearing officer's decision. No response was received from the claimant.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criteria in dispute are whether during the qualifying period for the fifth quarter: (1) the claimant earned less than 80% of his average weekly wage as a direct result of the impairment from his compensable injury; and (2) made a good faith effort to obtain employment commensurate with his ability to work. With regard to the direct result criterion, the hearing officer found that the claimant's unemployment during the qualifying period for the fifth quarter was a direct result of his impairment from his compensable injury. See Rule 130.102(c). With regard to the good faith criterion, the hearing officer found that as a result of his enrollment in, and satisfactory participation in, a Texas Rehabilitation Commission (TRC) Individualized Plan for Employment (IPE), the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying period for the fifth quarter. See Rule 130.102(d)(2). The hearing officer concluded that the claimant is entitled to SIBs for the fifth quarter. In reaching his decision, the hearing officer could consider the medical records in evidence; the TRC IPE, which was entered into during the qualifying period for the fifth quarter; and the claimant's testimony. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TRANSPORTATION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge